

CONVEYANCE OF VARIOUS RECLAMATION PROJECTS AND  
FACILITIES

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OCTOBER 6, 1998.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 4389]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4389) to provide for the conveyance of various reclamation project facilities to local water authorities, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**TITLE I—SLY PARK DAM AND RESERVOIR,  
CALIFORNIA**

**SEC. 101. SHORT TITLE.**

This title may be cited as the “Sly Park Unit Conveyance Act”.

**SEC. 102. DEFINITIONS.**

For purposes of this title:

(1) The term “District” means the El Dorado Irrigation District, a political subdivision of the State of California that has its principal place of business in the city of Placerville, El Dorado County, California.

(2) The term “Secretary” means the Secretary of the Interior.

(3) The term “Project” means all of the right, title, and interest in and to the Sly Park Dam and Reservoir, Camp Creek Diversion Dam and Tunnel, and con-

duits and canals held by the United States pursuant to or related to the authorization in the Act entitled “An Act to authorize the American River Basin Development, California, for irrigation and reclamation, and for other purposes”, approved October 14, 1949 (63 Stat. 852 chapter 690);

#### **SEC. 103. CONVEYANCE OF PROJECT.**

(a) **IN GENERAL.**—In consideration of the District accepting the obligations of the Federal Government for the Project and subject to the payment by the District of the net present value of the remaining repayment obligation, as determined by Office of Management and Budget Circular A-129 (in effect on the date of enactment of this Act) and the completion of payments by the District required under subsection (b)(3) of this section and section 106(b), the Secretary shall convey the Project to the District.

(b) **DEADLINE.**—

(1) **IN GENERAL.**—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) **DEADLINE IF CHANGES IN OPERATIONS INTENDED.**—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) **ADMINISTRATIVE COSTS OF CONVEYANCE.**—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline,  $\frac{1}{2}$  of such cost shall be paid by the District.

#### **SEC. 104. RELATIONSHIP TO EXISTING OPERATIONS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) **FUTURE ALTERATIONS.**—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 105).

#### **SEC. 105. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.**

(a) **PAYMENT OBLIGATIONS NOT AFFECTED.**—The conveyance of the Project under this title does not affect the payment obligations of the District under the contract between the District and the Secretary numbered 14-06-200-7734, as amended by contracts numbered 14-06-200-4282A and 14-06-200-8536A.

(b) **PAYMENT OBLIGATIONS EXTINGUISHED.**—Provision of consideration by the District in accordance with section 103(b) shall extinguish all payment obligations under contract numbered 14-06-200-949IR1 between the District and the Secretary.

#### **SEC. 106. RELATIONSHIP TO OTHER LAWS.**

(a) **RECLAMATION LAWS.**—Except as provided in subsection (b), upon conveyance of the Project under this title, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

(b) **PAYMENTS INTO THE CENTRAL VALLEY PROJECT RESTORATION FUND.**—The El Dorado Irrigation District shall continue to make payments into the Central Valley Project Restoration Fund for 31 years after the date of the enactment of this Act. The District’s obligation shall be calculated in the same manner as Central Valley Project water contractors.

#### **SEC. 107. LIABILITY.**

Except as otherwise provided by law, effective on the date of conveyance of the Project under this title, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

## TITLE II—MINIDOKA PROJECT, IDAHO

### SEC. 201. SHORT TITLE

This title may be cited as the “Burley Irrigation District Conveyance Act”.

### SEC. 202. DEFINITIONS.

In this section:

(1) **DISTRICT.**—The term “District” means the Burley Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(3) **PROJECT.**—The term “Project” means all of the right, title, and interest in and to the Southside Pumping Division of the Minidoka Project, Idaho, including the water distribution system below the headworks of the Minidoka Dam held in the name of the United States for the benefit of, and for use on land within, the District for which the allocable construction costs have been fully repaid by the District.

### SEC. 203. CONVEYANCE.

(a) **IN GENERAL.**—In consideration of the District accepting the obligations of the Federal Government for the Project, and subject to the completion of payments by the District required under subsection (c)(3), the Secretary shall convey the Project and the water rights described in subsection (b) to the District.

(b) **WATER RIGHTS.**—(1) Subject to subparagraphs (B) and (C), the Secretary shall transfer to the District, through an agreement among the District, the Minidoka Irrigation District, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and ground water rights held in the name of the United States—

(A) for the benefit of the South Side Pumping Division operated and maintained by the District;

(B) that are for use on lands within the District or that are return flows for which the District may receive credit against storage water used; and

(C) which include the rights set forth in contracts between the United States and the District or in the Decree of June 20, 1913, of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of *Twin Falls Canal Company v. Charles N. Foster, et al.*, and commonly referred to as the “Foster Decree”.

(2) The transfer of the property interest of the United States in Project water rights directed to be conveyed by this title shall—

(A) neither enlarge nor diminish the respective rights of either the Minidoka Irrigation District or the District in such water rights, as described in contracts between the District, Minidoka, and the United States;

(B) not be exercised as to impair the integrated operation of the Minidoka Project by the Secretary pursuant to applicable Federal law;

(C) not affect any other water rights; and

(D) not result in any adverse impact on any other project water user.

(c) **DEADLINE.**—

(1) **IN GENERAL.**—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) **DEADLINE IF CHANGES IN OPERATIONS INTENDED.**—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) **ADMINISTRATIVE COSTS OF CONVEYANCE.**—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline,  $\frac{1}{2}$  of such cost shall be borne by the District.

**SEC. 204. RELATIONSHIP TO EXISTING OPERATIONS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) **FUTURE ALTERATIONS.**—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 205).

**SEC. 205. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.**

(a) **SAVINGS.**—Nothing in this title or any transfer pursuant thereto shall affect the right of Minidoka Irrigation District to the joint use of the gravity portion of the Southside Canal, subject to compliance by the Minidoka Irrigation District with the terms and conditions of a contract between the District and Minidoka Irrigation District, and any amendments or changes made by agreement of the irrigation districts.

(b) **ALLOCATION OF STORAGE SPACE.**—The Secretary shall provide an allocation to the District of storage space in Minidoka Reservoir, American Falls Reservoir, and Palisades Reservoir, as described in Burley Contract Nos. 14–06–100–2455 and 14–06–W–48, subject to the obligation of Burley to continue to assume and satisfy its allocable costs of operation and maintenance associated with the storage facilities operated by the Bureau of Reclamation.

(c) **PROJECT RESERVED POWER.**—The Secretary shall continue to provide the District with project reserved power from the Minidoka Reclamation Power Plant, Palisades Reclamation Power Plant, Black Canyon Reclamation Power Plant, and Anderson Ranch Reclamation Power Plant in accordance with the terms of the existing contracts, including any renewals thereof as provided in such contracts.

**SEC. 206. LIABILITY.**

Except as otherwise provided by law, effective on the date of conveyance of the Project under this title, the United States shall not be held liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

## **TITLE III—CARLSBAD IRRIGATION PROJECT, NEW MEXICO**

**SEC. 301. SHORT TITLE.**

This title may be cited as the “Carlsbad Irrigation Project Acquired Land Conveyance Act”.

**SEC. 302. DEFINITIONS.**

For purposes of this title:

(1) The term “District” means the Carlsbad Irrigation District, a quasimunicipal corporation formed under the laws of the State of New Mexico that has its principal place of business in the city of Carlsbad, Eddy County, New Mexico.

(2) The term “Secretary” means the Secretary of the Interior.

(3) The term “Project” means all right, title, and interest in and to the lands (including the subsurface and mineral estate) in Eddy County, New Mexico, described as the acquired lands in section (7) of the Status of Lands and Title Report: Carlsbad Project as reported by the Bureau of Reclamation in 1978 and all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related ditch rider houses, maintenance shop and buildings, and Pecos River Flume.

**SEC. 303. CONVEYANCE OF PROJECT.**

(a) **IN GENERAL.**—Except as provided in subsection (b), in consideration of the District accepting the obligations of the Federal Government for the Project, and subject to the completion of payments by the District required under subsection (c)(3), the Secretary shall convey the Project to the District.

(b) **RETAINED TITLE.**—The Secretary shall retain title to the surface estate (but not the mineral estate) of such Project lands which are located under the footprint of Brantley and Avalon dams or any other Project dam or reservoir diversion structure. The Secretary shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantley Reservoirs.

(c) **DEADLINE.**—

(1) **IN GENERAL.**—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) **DEADLINE IF CHANGES IN OPERATIONS INTENDED.**—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) **ADMINISTRATIVE COSTS OF CONVEYANCE.**—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline,  $\frac{1}{2}$  of such cost shall be paid by the District.

#### **SEC. 304. RELATIONSHIP TO EXISTING OPERATIONS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed as significantly expanding or otherwise changing the use and operation of the Project from its current use. The Project shall continue to be managed and used by the District for the purposes for which the Project was authorized, based on historic operations, and consistent with the management of other adjacent project lands.

(b) **FUTURE ALTERATIONS.**—If the District alters the operations or uses of the Project, it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 305).

#### **SEC. 305. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.**

(a) **IN GENERAL.**—Except as provided in subsection (b), upon conveyance of the Project under this title the District shall assume all rights and obligations of the United States under the agreement dated July 28, 1994, between the United States and the Director, New Mexico Department of Game and Fish (Document No. 2-LM-40-00640), relating to management of certain lands near Brantley Reservoir for fish and wildlife purposes and the agreement dated March 9, 1977, between the United States and the New Mexico Department of Energy, Minerals, and Natural Resources (Contract No. 7-07-57-X0888) for the management and operation of Brantley Lake State Park.

(b) **LIMITATION.**—The District shall not be obligated for any financial support agreed to by the Secretary, or the Secretary's designee, in either agreement and the District shall not be entitled to any receipts or revenues generated as a result of either agreement.

#### **SEC. 306. LEASE MANAGEMENT AND PAST REVENUES COLLECTED FROM THE ACQUIRED LANDS.**

(a) **NOTIFICATION OF LEASEHOLDERS.**—Within 120 days after the date of enactment of this Act, the Secretary shall provide to the District a written identification of all mineral and grazing leases in effect on Project lands on the date of enactment of this Act and notify all leaseholders of the conveyance authorized by this title.

(b) **MANAGEMENT OF LEASES, LICENSES, AND PERMITS.**—The District shall assume all rights and obligations of the United States for all mineral and grazing leases, licenses, and permits existing on the Project lands conveyed under section 303, and shall be entitled to any receipts from such leases, licenses, and permits accruing after the date of conveyance. All such receipts shall be used for purposes for which the Project was authorized and for financing the portion of operations, maintenance, and replacement at the Sumner Dam that, prior to conveyance, was the responsibility of the Bureau of Reclamation, with the exception of major maintenance programs in progress prior to conveyance. The District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Project.

(c) **AVAILABILITY OF AMOUNTS PAID INTO THE RECLAMATION FUND.**—

(1) **AMOUNTS IN FUND ON DATE OF ENACTMENT.**—Amounts in the reclamation fund on the date of enactment of this Act which exist as construction credits to the Carlsbad Project under the terms of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-359) shall be deposited into the general fund of the Treasury and credited to deficit reduction or retirement of the Federal debt.

(2) **RECEIPTS AFTER DATE OF ENACTMENT.**—Of the receipts from mineral and grazing leases, licenses, and permits on Project lands to be conveyed under section 303 that are received by the United States after the date of enactment of

this Act and before the date of conveyance, up to \$200,000 shall be applied to pay the cost referred to in section 303(c)(3) and the remainder shall be deposited into the general fund of the Treasury of the United States and credited to deficit reduction or retirement of the Federal debt.

**SEC. 307. WATER CONSERVATION PRACTICES.**

Nothing in this title shall be construed to limit the ability of the District to voluntarily implement water conservation practices.

**SEC. 308. LIABILITY.**

Except as otherwise provided by law, effective on the date of conveyance of the Project under this title, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

**SEC. 309. FUTURE RECLAMATION BENEFITS.**

After completion of the conveyance under this title, the District shall not be eligible for any emergency loan from the Bureau of Reclamation for maintenance or replacement of any facility conveyed under this title.

## **TITLE IV—PALMETTO BEND PROJECT, TEXAS**

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Palmetto Bend Conveyance Act”.

**SEC. 402. DEFINITIONS.**

In this title:

(1) **STATE.**—The term “State” means the Lavaca-Navidad River Authority and the Texas Water Development Board, jointly.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(3) **PROJECT.**—The term “Project” means all of the right, title, and interest in and to the Palmetto Bend reclamation project, Texas, authorized by Public Law 90–562 (82 Stat. 999).

**SEC. 403. CONVEYANCE OF PROJECT.**

(a) **IN GENERAL.**—In consideration of the State accepting the obligations of the Federal Government for the Project and subject to the payment by the State of the net present value of the remaining repayment obligation, as determined by Office of Management and Budget Circular A–129 (in effect on the date of enactment of this Act) and the completion of payments by the State required under subsection (b)(3), the Secretary shall convey the Project to the State.

(b) **DEADLINE.**—

(1) **IN GENERAL.**—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) **DEADLINE IF CHANGES IN OPERATIONS INTENDED.**—If the State intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) **ADMINISTRATIVE COSTS OF CONVEYANCE.**—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline, ½ of such cost shall be paid by the State.

**SEC. 404. RELATIONSHIP TO EXISTING OPERATIONS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) **FUTURE ALTERATIONS.**—If the State alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time.

(c) **CONDITION.**—Subject to the laws of the State of Texas, Lake Texana shall not be used to wheel water originating from the Texas, Colorado River.

**SEC. 405. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.**

Existing obligations of the United States pertaining to the Project shall continue in effect and be assumed by the State.

**SEC. 406. RELATIONSHIP TO OTHER LAWS.**

Upon conveyance of the Project under this title, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

**SEC. 407. LIABILITY.**

Except as otherwise provided by law, effective on the date of conveyance of the Project under this title, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

## **TITLE V—WELLTON-MOHAWK DIVISION, GILA PROJECT, ARIZONA**

**SEC. 501. SHORT TITLE.**

This title may be cited as the “Wellton-Mohawk Division Title Transfer Act of 1998”.

**SEC. 502. DEFINITIONS.**

For purposes of this title:

(1) The term “District” means the Wellton-Mohawk Irrigation and Drainage District, an irrigation and drainage district created, organized, and existing under and by virtue of the laws of the State of Arizona.

(2) The term “Project” means all of the right, title, and interest in and to the Wellton-Mohawk Division, Gila Project, Arizona, held by the United States pursuant to or related to any authorization in the Act of July 30, 1947 (chapter 382; 61 Stat. 628).

(3) The term “Secretary” means the Secretary of the Interior.

(4) The term “withdrawn lands” means those lands within and adjacent to the District that have been withdrawn from public use for reclamation purposes.

**SEC. 503. CONVEYANCE OF PROJECT.**

(a) **IN GENERAL.**—In consideration of the District accepting the obligations of the Federal Government for the Project, and subject to the payment of fair market value by the District for the withdrawn lands and the completion of payments by the District required under subsection (b)(3), the Secretary shall convey the Project and the withdrawn lands to the District in accordance with the Memorandum of Agreement between the Secretary and the District numbered 8-AA-34-WAO14 and dated July 10, 1988.

(b) **DEADLINE.**—

(1) **IN GENERAL.**—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) **DEADLINE IF CHANGES IN OPERATIONS INTENDED.**—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 3 years after the date of the enactment of this Act.

(3) **ADMINISTRATIVE COSTS OF CONVEYANCE.**—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline,  $\frac{1}{2}$  of such cost shall be paid by the District.

**SEC. 504. RELATIONSHIP TO EXISTING OPERATIONS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use or operation.

(b) **FUTURE ALTERATIONS.**—If the District alters the operations or uses of the Project, it shall comply with all applicable laws and regulations governing such changes at that time.

**SEC. 505. LIABILITY.**

Except as otherwise provided by law, effective on the date of conveyance of the Project under this title, the United States shall not be held liable under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

**SEC. 506. LANDS TRANSFER.**

Pursuant to the Memorandum of Agreement between the Secretary and the District numbered 8-AA-34-WAO14 and dated July 10, 1988, the Secretary may transfer to the District, by sale or exchange, at fair market value, public lands located in or adjacent to the Project, and lands held by the Federal Government on the date of the enactment of this Act pursuant to Public Law 93-320 and Public Law 100-512 and located in or adjacent to the District, other than lands in the Gila River channel.

**SEC. 507. WATER AND POWER CONTRACTS.**

Notwithstanding any conveyance or transfer under this title, the Secretary and the Secretary of Energy shall provide for and deliver Colorado River water and Parker-Davis Project Priority Use Power to the District in accordance with the terms of existing contracts with the District, including any amendments and supplements thereto or extensions thereof and as provided under section 2 of the Memorandum of Agreement between the Secretary and the District numbered 8-AA-34-WAO14 and dated July 10, 1988.

## **TITLE VI—CANADIAN RIVER PROJECT, TEXAS**

**SEC. 601. SHORT TITLE.**

This title may be cited as the “Canadian River Project Prepayment Act”.

**SEC. 602. DEFINITIONS.**

For the purposes of this title:

(1) The term “Authority” means the Canadian River Municipal Water Authority, a conservation and reclamation district of the State of Texas.

(2) The term “Canadian River Project Authorization Act” means the Act entitled “An Act to authorize the construction, operation, and maintenance by the Secretary of the Interior of the Canadian River reclamation project, Texas”, approved December 29, 1950 (chapter 1183; 64 Stat. 1124).

(3) The term “Project” means all of the right, title, and interest in and to all land and improvements comprising the pipeline and related facilities of the Canadian River Project authorized by the Canadian River Project Authorization Act.

(4) The term “Secretary” means the Secretary of the Interior.

**SEC. 603. PREPAYMENT AND CONVEYANCE OF PROJECT.**

(a) **IN GENERAL.**—(1) In consideration of the Authority accepting the obligation of the Federal Government for the Project and subject to the payment by the Authority of the applicable amount under paragraph (2) within the 360-day period beginning on the date of the enactment of this title, the Secretary shall convey the Project to the Authority, as provided in section 2(c)(3) of the Canadian River Project Authorization Act (64 Stat. 1124).

(2) For purposes of paragraph (1), the applicable amount shall be—

(A) \$34,806,731, if payment is made by the Authority within the 270-day period beginning on the date of enactment of this title; or

(B) the amount specified in subparagraph (A) adjusted to include interest on that amount since the date of the enactment of this title at the appropriate Treasury bill rate for an equivalent term, if payment is made by the Authority after the period referred to in subparagraph (A).

(3) If payment under paragraph (1) is not made by the Authority within the period specified in paragraph (1), this title shall have no force or effect.

(b) **FINANCING.**—Nothing in this title shall be construed to affect the right of the Authority to use a particular type of financing.



**SEC. 604. RELATIONSHIP TO EXISTING OPERATIONS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) **FUTURE ALTERATIONS.**—If the Authority alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such alteration at that time.

(c) **RECREATION.**—The Secretary of the Interior, acting through the National Park Service, shall continue to operate the Lake Meredith National Recreation Area at Lake Meredith.

(d) **FLOOD CONTROL.**—The Secretary of the Army, acting through the Corps of Engineers, shall continue to prescribe regulations for the use of storage allocated to flood control at Lake Meredith as prescribed in the Letter of Understanding entered into between the Corps, the Bureau of Reclamation, and the Authority in March and May 1980.

(e) **SANFORD DAM PROPERTY.**—The Authority shall have the right to occupy and use without payment of lease or rental charges or license or use fees the property retained by the Bureau of Reclamation at Sanford Dam and all buildings constructed by the United States thereon for use as the Authority's headquarters and maintenance facility. Buildings constructed by the Authority on such property, or past and future additions to Government constructed buildings, shall be allowed to remain on the property. The Authority shall operate and maintain such property and facilities without cost to the United States.

**SEC. 605. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.**

(a) **PAYMENT OBLIGATIONS EXTINGUISHED.**—Provision of consideration by the Authority in accordance with section 603(a) shall extinguish all payment obligations under contract numbered 14–06–500–485 between the Authority and the Secretary.

(b) **OPERATION AND MAINTENANCE COSTS.**—After completion of the conveyance provided for in section 603, the Authority shall have full responsibility for the cost of operation and maintenance of Sanford Dam, and shall continue to have full responsibility for operation and maintenance of the Project pipeline and related facilities.

(c) **GENERAL.**—Rights and obligations under the existing contract No. 14–06–500–485 between the Authority and the United States, other than provisions regarding repayment of construction charge obligation by the Authority and provisions relating to the Project aqueduct, shall remain in full force and effect for the remaining term of the contract.

**SEC. 606. RELATIONSHIP TO OTHER LAWS.**

Upon conveyance of the Project under this title, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

**SEC. 607. LIABILITY.**

Except as otherwise provided by law, effective on the date of conveyance of the Project under this title, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed property.

## **TITLE VII—CLEAR CREEK DISTRIBUTION SYSTEM, CALIFORNIA**

**SEC. 701. SHORT TITLE.**

This title may be cited as the “Clear Creek Distribution System Conveyance Act”.

**SEC. 702. DEFINITIONS.**

For purposes of this title:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(2) **DISTRICT.**—The term “District” means the Clear Creek Community Services District, a California community services district located in Shasta County, California.

(3) **DISTRIBUTION SYSTEM.**—The term “Distribution System” means all the right title and interest in and to the Clear Creek distribution system as defined in the agreement entitled “Agreement Between the United States and the Clear Creek Community Services District to Transfer Title to the Clear Creek Dis-

tribution System to the Clear Creek Community Services District” (Agreement No. 8–07–20–L6975).

**SEC. 703. CONVEYANCE OF PROJECT.**

(a) **IN GENERAL.**—In consideration of the District accepting the obligations of the Federal Government for the Distribution System and subject to the completion of payments by the District required under subsection (b)(3), the Secretary shall convey the Distribution System to the District.

(b) **DEADLINE.**—

(1) **IN GENERAL.**—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) **DEADLINE IF CHANGES IN OPERATIONS INTENDED.**—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) **ADMINISTRATIVE COSTS OF CONVEYANCE.**—If the Secretary fails to complete the conveyance under this title before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline,  $\frac{1}{2}$  of such cost shall be paid by the District.

**SEC. 704. RELATIONSHIP TO EXISTING OPERATIONS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed as significantly expanding or otherwise changing the use or operation of the Distribution System from its current use and operation.

(b) **FUTURE ALTERATIONS.**—If the District alters the operations or uses of the Distribution System it shall comply with all applicable laws or regulations governing such changes at that time (subject to section 705).

**SEC. 705. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.**

(a) **NATIVE AMERICAN TRUST RESPONSIBILITY.**—The Secretary shall ensure that any trust responsibilities to any Native American Tribes that may be affected by the conveyance under this title are protected and fulfilled.

(b) **CONTRACT OBLIGATIONS.**—Conveyance of the Distribution System under this title—

(1) shall not affect any of the provisions of the District’s existing water service contract with the United States (contract number 14–06–200–489–IR3), as it may be amended or supplemented; and

(2) shall not deprive the District of any existing contractual or statutory entitlement to subsequent interim renewals of such contract or to renewal by entering into a long-term water service contract.

**SEC. 706. LIABILITY.**

Effective on the date of conveyance of the Distribution System under this title, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of the conveyed property.

## **TITLE VIII—PINE RIVER PROJECT, COLORADO**

**SEC. 801. SHORT TITLE.**

This title may be cited as the “Vallecito Dam and Reservoir Conveyance Act”.

**SEC. 802. DEFINITIONS.**

For purposes of this title:

(1) The term “District” means the Pine River Irrigation District, a political division of the State of Colorado duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the City of Bayfield, La Plata County, Colorado.

(2) The term “Secretary” means the Secretary of the Interior.

(3) The term the “Project” means Vallecito Dam and Reservoir, and associated interests, owned by the United States and authorized in 1937 under the provisions of the Department of the Interior Appropriation Act of June 25, 1910 (36 Stat. 835).

(4) The term “Repayment Contract” means Repayment Contract #11r-1204, between Reclamation and the Pine River Irrigation District, dated April 15, 1940, and amended November 30, 1953, all amendments thereto, and changes pursuant to the Act of July 27, 1954 (68 Stat. 534).

(5) The term “Tribe” means the Southern Ute Indian Tribe, a federally recognized Indian tribe located on the Southern Ute Indian Reservation, La Plata County, Colorado.

(6) The term “Jurisdictional Map” means the map entitled “Transfer of Jurisdiction—Vallecito Reservoir, United States Department of Agriculture, Forest Service and United States Department of the Interior, Bureau of Reclamation and the Bureau of Indian Affairs” dated March, 1998.

#### SEC. 803. CONVEYANCE OF PROJECT.—

##### (a) CONVEYANCE TO DISTRICT.—

(1) IN GENERAL.—In consideration of the District accepting the obligations of the Federal Government for the Project and subject to the completion of payments by the District required under subsection (b)(3) and occurrence of the events described in paragraphs (2) and (3) of this subsection, the Secretary shall convey an undivided  $\frac{5}{6}$  interest in the Project to the District.

(2) SUBMISSION OF MANAGEMENT PLAN.—Prior to any conveyance under paragraph (1), the District shall submit to the Secretary a plan to manage the Project in a manner substantially similar to the manner in which it was managed prior to the transfer and in accordance with applicable Federal and State laws, including provisions—

(A) protecting the interests in the Project held by the Bureau of Indian Affairs for the Tribe;

(B) preserving public access and recreational values and preventing growth on certain lands to be conveyed hereunder, as set forth in an Agreement dated March 20, 1998, between the District and residents of Vallecito Reservoir; and

(C) ensuring that any future change in the use of the water supplied by Vallecito Reservoir shall comply with applicable law.

(3) LIMITATION.—No interest in the Project shall convey under this subsection before the date on which the Secretary receives a copy of a resolution adopted by the Tribe declaring that the terms of the conveyance protects the Indian trust assets of the Tribe.

##### (b) DEADLINE.—

(1) IN GENERAL.—If no changes in Project operations are expected following the conveyance under subsection (a), the Secretary shall complete the conveyance under subsection (a) expeditiously, but not later than 180 days after the date of the enactment of this Act.

(2) DEADLINE IF CHANGES IN OPERATIONS INTENDED.—If the District intends to change Project operations as a result of the conveyance under subsection (a), the Secretary—

(A) shall take into account those potential changes for the purpose of completing any required environmental evaluation associated with the conveyance; and

(B) shall complete the conveyance by not later than 2 years after the date of the enactment of this Act.

(3) ADMINISTRATIVE COSTS OF CONVEYANCE.—If the District submits a plan in accordance with subsection (a)(2) and the Secretary receives a copy of a resolution described in subsection (a)(3), and the Secretary fails to complete the conveyance under subsection (a) before the applicable deadline under paragraph (1) or (2), the full cost of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before that deadline,  $\frac{1}{2}$  of such cost shall be paid by the District.

(c) TRIBAL INTERESTS.—At the option of the Tribe, the Secretary shall convey to the Tribe an undivided  $\frac{1}{6}$  interest in the Project, all interests in lands over which the Bureau of Indian Affairs holds administrative jurisdiction under section 804(e)(1)(A), and water rights associated with those interests. No consideration or compensation shall be required to be paid to the United States for such conveyance.

(d) RESTRICTION ON PARTITION.—Any conveyance of interests in lands under this title shall be subject to the prohibition that those interests in those lands may not

be partitioned. Any quit claim deed or patent evidencing such a conveyance shall expressly prohibit partitioning.

**SEC. 804. RELATIONSHIP TO EXISTING OPERATIONS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

(b) **DESCRIPTION OF EXISTING CONDITION.**—The Secretary shall submit to the District, the Bureau of Indian Affairs, and the State of Colorado a description of the existing condition of Vallecito Dam based on Bureau of Reclamation's current knowledge and understanding.

(c) **FUTURE ALTERATIONS.**—If the District alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such changes at that time.

(d) **FLOOD CONTROL PLAN.**—The District shall work with Corps of Engineers to develop a flood control plan for the operation of Vallecito Dam for flood control purposes.

(e) **JURISDICTIONAL TRANSFER OF LANDS.**—

(1) **INUNDATED LANDS.**—To provide for the consolidation of lands associated with the Project to be retained by the Forest Service and the consolidation of lands to be transferred to the District, the administrative jurisdiction of lands inundated by and along the shoreline of Vallecito Reservoir, as shown on the Jurisdictional Map, shall be transferred, as set forth in this subsection, concurrently with any conveyance under section 803. Except as otherwise shown on the Jurisdictional Map—

(A) for withdrawn lands (approximately 260 acres) lying below the 7,665-foot reservoir water surface elevation level, the Forest Service shall transfer an undivided  $\frac{1}{2}$  interest to the Bureau of Reclamation and an undivided  $\frac{1}{2}$  interest to the Bureau of Indian Affairs in trust for the Tribe; and

(B) for Project acquired lands (approximately 230 acres) above the 7,665-foot reservoir water surface elevation level, the Bureau of Reclamation and the Bureau of Indian Affairs shall transfer their interests to the Forest Service.

(2) **MAP.**—The Jurisdictional Map and legal descriptions of the lands transferred pursuant to paragraph (1) shall be on file and available for public inspection in the offices of the Chief of the Forest Service, the Commissioner of Reclamation, appropriate field offices of those agencies, and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(3) **ADMINISTRATION.**—Following the transfer of administrative jurisdiction under paragraph (1):

(A) All lands that, by reason of the transfer of administrative jurisdiction under paragraph (1), become National Forest System lands within the boundaries of the San Juan National Forest, shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(B) Bureau of Reclamation withdrawals of land from the San Juan National Forest established by Secretarial Orders on November 9, 1936, October 14, 1937, and June 20, 1945, together designated as Serial No. C-28259, shall be revoked.

(C) The Forest Service shall issue perpetual easements to the District and the Bureau of Indian Affairs, at no cost to the District or the Bureau of Indian Affairs, providing adequate access across all lands subject to Forest Service jurisdiction to insure the District and the Bureau of Indian Affairs the ability to continue to operate and maintain the Project.

(D) The undivided  $\frac{5}{8}$  interest in National Forest System lands that, by reason of the transfer of administrative jurisdiction under paragraph (1) is to be administered by Bureau of Reclamation, shall be conveyed to the District pursuant to section 803.

(E) The District and the Bureau of Indian Affairs shall issue perpetual easements to the Forest Service, at no cost to the Forest Service, from National Forest System lands to Vallecito Reservoir to assure continued public access to Vallecito Reservoir when the Reservoir level drops below the 7,665-foot water surface elevation.

(F) The District and the Bureau of Indian Affairs shall issue a perpetual easement to the Forest Service, at no cost to the Forest Service, for the reconstruction, maintenance, and operation of a road from La Plata County Road No. 501 to National Forest System lands east of the Reservoir.

(4) **VALID EXISTING RIGHTS.**—Nothing in this subsection shall affect any valid existing rights or interests in any existing land use authorization, except that any such land use authorization shall be administered by the agency having jurisdiction over the land after the transfer of administrative jurisdiction under paragraph (1) in accordance with paragraph (3) and other applicable law. Renewal or reissuance of any such authorization shall be in accordance with applicable law and the regulations of the agency having jurisdiction, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any such authorization.

(f) **FEDERAL DAM CHARGE.**—Nothing in this title shall relieve the holder of the Federal Energy Regulatory Commission license for Vallecito Dam in effect on the date of the enactment of this Act from the obligation to make payments under section 10(e)(2) of the Federal Power Act during the term of the license.

**SEC. 805. RELATIONSHIP TO OTHER LAWS.**

Upon conveyance of the Project under this title, the Reclamation Act of 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

**SEC. 806. LIABILITY.**

Except as otherwise provided by law, effective on the date of conveyance of the Project under this title, the liability of the United States under any law for damages of any kind arising out of any act, omission, or occurrence based on its prior ownership or operation of property in which an interest is conveyed by the United States pursuant to this title shall be limited to the portion of the total damages that bears the same proportion to the total damages as the interest in the property retained by the United States bears to the total interest in the property.

**PURPOSE OF THE BILL**

The purpose of H.R. 4389 is to provide for the conveyance of various reclamation project facilities to local water authorities, and for other purposes.

**BACKGROUND AND NEED FOR LEGISLATION**

Federal facilities transfers have been of particular interest to Congress and the Administration in recent years. Facility transfers represent an effort to shrink the federal government and shift the responsibilities for ownership into the hands of those who can more efficiently operate and maintain them. As a result of the National Performance Review (Reinventing Government II), the Bureau of Reclamation, within the Department of Interior, initiated a program to transfer ownership of some of its facilities to non-federal entities.

Proposals to transfer title to selected Reclamation facilities have been advanced in prior years. Some were ultimately authorized by Congress.<sup>1</sup> A transfer provision was also included in the 1955 Distribution System Loans Act, as amended. This provision differs from the Reclamation Act of 1902 in that it allows transfer of title to the lands and facilities upon repayment of the loan. In addition to the operations and management transfer authorization under the Reclamation Act of 1902, several other title transfer provisions are included in individual project acts. These include section 7 of the 1928 Boulder Canyon Project Act (Act of Dec. 21, 1928, 45 Stat. 1057, 43 U.S.C. 617 et seq.), which authorizes the Secretary of the Interior to transfer title to the All-American Canal and certain other related facilities after repayment has been completed; provisions in the Act of September 22, 1959 (Public Law 86-357, 73

<sup>1</sup> See most recently Public Law 102-575, transferring facilities to the Elephant Butte Irrigation District, New Mexico (Title XXXIII), and the Vermejo Project, New Mexico (Title XIV).

Stat. 641), regarding transfer of title for Lower Rio Grande project facilities; and Public Law 83-752 (68 Stat. 1045), which directs the Secretary to transfer title to the Palo Verde Irrigation District upon repayment.

Reclamation holds title to more than 600 water projects throughout the western United States. While the Bureau of Reclamation has transferred operation and maintenance responsibilities for about 400 projects, legislation is required to transfer ownership. Under the provisions of Section VI of the Reclamation Act of 1902, title to project facilities remain with the United States unless otherwise provided by Congress, even if project beneficiaries have completed their repayment obligation. Section VI of the Reclamation Act of 1902 states:

The Secretary of the Interior is hereby authorized and directed to use the reclamation fund for the operation and maintenance of all reservoirs and irrigation works constructed under the provisions of this act: *Provided*, That when the payments required by this act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior: *Provided*, That the title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress.

(32 Stat. 389; 43 U.S.C. §§ 491, 498).

Many of these projects were constructed at a time when there were no local communities and utilities. Furthermore, many of the States in which the projects were built did not have a sufficient tax base to fund them. However, as the West became more populated, and with the urbanization of these areas, the Bureau of Reclamation now owns and operates public facilities that would be owned, operated and funded by private corporations or local government agencies if they were in other parts of the country.

The legislative history of the 1902 Reclamation Act also bears out that Congress contemplated the transfer of title to project works at a future time. As the Chairman of the Committee on Irrigation of Arid Lands stated:

Inasmuch, however, as it is deemed wise, for the present at least, that Congress shall have full control over storage reservoirs and works for the impounding of waters for the reason that works of this class affect a large number of water users—and there is always a possibility of the opportunity and advisability of increasing the capacity of such works—it has been provided that they shall remain for the present under the management and control of Congress, though the probability is that ultimately, when permanently established, it will be deemed wise and advisable to transfer them also to local control. [emphasis added]

In regard to recent developments, the Committee concurs with a general statement issued by the Bureau of Reclamation on August 7, 1995, regarding the framework for the transfer of title of Bureau of Reclamation projects. The statement reads:

Reclamation is proceeding to develop a new Categorical Exclusion (CE) for those title transfers which would not significantly impact the environment and thus could be categorically excluded from a detailed NEPA review. *Generally, Reclamation would anticipate such a CE would apply on projects involving transfer of title of Reclamation projects or facilities, in whole or in part, to entities who would operate and maintain the facilities or manage the lands so that there would be no significant changes in operation and maintenance or in land and water use in the reasonably foreseeable future.* [emphasis added]

However, to date, Reclamation has yet presented a legislative proposal to transfer even one project under the plan they developed to facilitate transfers, even though many of the projects are operated and maintained by the same partners that are seeking transfer. It is contemplated that the transferred facilities would be maintained and managed so that there would be “no significant changes in operation and maintenance or in land and water use in the reasonably foreseeable future.” However, once transfer takes place, the management of the facility will be up to the discretion of the new owners.

Congress expects that title transfer should occur in an open and fair public process within the affected community. Congress does not want to establish a one-size-fits-all statutory procedure that would limit a State, or community from developing a process to address issues surrounding each individual project, and how it should be transferred. Furthermore, it is not the intent of Congress to use the National Environmental Policy Act as a means to stall or halt a project from transferring to a local entity. If environmental documentation is needed to facilitate a transfer, it is the intent of Congress to have it done in a timely manner. For example, each title within H.R. 4389 contains a provision that, if no changes in project operations are expected following the conveyance of title, then the Secretary shall complete the conveyance expeditiously, but not later than 180 days after the date of the enactment. If the water district receiving title intends to change project operations as a result of conveyance of the project the Secretary shall take that into consideration and complete the conveyance within two years. If the Secretary fails to meet the conveyance deadlines, the full costs of administrative action and environmental compliance for the conveyance shall be borne by the Secretary. If the Secretary completes the conveyance before the deadlines, one half of the cost will be paid by the District.

As introduced, H.R. 4389 contained the text of the following bills: H.R. 4048 (Sly Park Dam and Reservoir, California); H.R. 1282 (Minidoka Project, Idaho); H.R. 1943 (Carlsbad Irrigation Project, New Mexico); H.R. 2161 (Palmetto Bend Project, Texas); H.R. 3677 (Gila Project, Arizona); H.R. 3687 (Canadian River Project, Texas);

H.R. 3706 (Clear Creek Distribution System, California); and H.R. 3715 (Pine River Project, Colorado).

#### COMMITTEE ACTION

H.R. 4389 was introduced on August 4, 1998, by Congressman John Doolittle (R-CA). The bill was referred to the Committee on Resources. On August 5, 1998, the Full Resources Committee met to consider H.R. 4389. Congressman Doolittle offered an amendment en bloc which clarified the Sly Park Dam and Reservoir transfer regarding payments by the El Dorado Irrigation District to the Central Valley Restoration Fund and substituted updated text for title VI of the bill dealing with the Canadian River Project, Texas. The amendment was adopted by voice vote. Congressman Solomon Ortiz (D-TX) offered an amendment prohibiting the use of Lake Texana use to wheel water from the Texas, Colorado River under title IV of the bill dealing with the Palmetto Bend Project, Texas. The Ortiz amendment was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

Prior to the introduction of H.R. 4389, the Subcommittee on Water and Power held a hearing on Bureau of Reclamation project transfers on April 30, 1998. During the hearing witnesses discussed issues affecting the transfer of title to various irrigation districts in the Western United States. Testimony regarding the projects to be transferred was presented by Mr. Eluid Martinez, Commissioner, Bureau of Reclamation, and Mr. Ralph DeGennaro, Executive Director, Taxpayers for Common Sense. Project specific remarks were heard from Congressman Scott McInnis (R-CO) and Mr. Bruce Driver, Consultant, regarding the Pine River Project, Colorado; Mr. Emmett Gloyna, General Manager, Lavaca-Navidad River Authority regarding the Palmetto Bend Project, Texas; Mr. John Williams, General Manager, Canadian River Municipal Water Authority regarding the Canadian River Project, Texas; Mr. Wade Noble, from the law firm of Choules, Shadle & Noble, and Mr. William Snape, Legal Director, Defenders of Wildlife, regarding the Wellton-Mohawk Division/Gila Project, Arizona; Mr. Larry Russell, Chairman, Board of Directors, Clear Creek Community, regarding the Clear Creek Project, California; Mr. Roger D. Ling, law firm of Ling, Nielsen & Robinson, Rupert, regarding the Minidoka Project, Idaho; Mr. Tom W. Davis, Manager, Carlsbad Irrigation District regarding the Carlsbad Project, New Mexico.

On June 25, 1998, the Water and Power Subcommittee met to consider four bills that became titles of H.R. 4389. These bills included H.R. 3687, concerning the Canadian River Project, Texas; H.R. 4048, concerning Sly Park Dam and Reservoir, California; H.R. 1282, concerning the Minidoka Project, Idaho; and H.R. 1943, concerning the Carlsbad Project, New Mexico. All four bills were amended and reported favorably from the Subcommittee to the Full Committee on Resources. On July 16, 1998, the Water and Power Subcommittee met to consider four additional bills which became titles of H.R. 4389. These bills were: H.R. 2161, concerning the Palmetto Bend Project, Texas; H.R. 3677, concerning the Gila Project, Arizona; H.R. 3706, concerning the Clear Creek Distribution System, California; and H.R. 3715, concerning the Pine River Project,



Colorado. All four bills were amended and ordered favorably reported by the Subcommittee to the Full Committee on Resources.

#### TITLE-BY-TITLE ANALYSIS

##### *Title I—Sly Park Dam and Reservoir, California*

The Sly Park Unit was originally authorized under the American River Act of October 14, 1949. The Unit includes Sly Park Dam and Jenkinson Lake on Sly Park Creek, Camp Creek Diversion Dam on Cam Creek, and Camino Conduit. Upon completion in 1955, the operation of the facilities was transferred to the El Dorado Irrigation District. The District is the major water supplier in El Dorado County, providing service throughout a 200 square-mile area in the western part of the County. In cooperation with the Bureau of Reclamation, the District operates the Sly Park Recreation Area, which offers camping, boating, swimming, picnicking and fishing.

This title directs the Secretary of the Interior to convey the Sly Park Dam and Reservoir to the El Dorado Irrigation District. The sale of the Sly Park Unit under the bill would not affect the payment obligation of the District under an additional contract it has with the Secretary of the Interior. Payments under that contract will continue under the terms of the contract.

Power customers of the Central Valley Project (CVP) had raised concerns that since their contributions to the CVP Restoration Fund are not capped, their contributions would be increased to compensate for the fact that the El Dorado Irrigation District would no longer be paying into the Fund. The Committee has addressed this concern by requiring the El Dorado Irrigation District to continue making payments into the Fund until 2029 (the remaining period of their repayment obligation), as required under Public Law 102–575.

Language similar to this title was approved by Congress as part of the fiscal year 1996 Budget Reconciliation package which was vetoed by President Clinton. In addition, language providing for the sale of the Sly Park Unit, under different conditions, was passed by the House in 1991 as a part of H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991. However, the sale was not included in the final public law, Public Law 102–575. The conveyance was also passed in the House as H.R. 3903 in the 104th Congress.

##### *Title II—Minidoka Project, Idaho*

The Minidoka Project was the first Reclamation project in Idaho and was constructed under the authority of the 1902 Reclamation Act. All construction contracts and costs for the canal system, pumping plants, power house, transmission lines, and other elements have been fully repaid as well as all contracts for storage and maintenance. Since 1926, the District has been responsible for all operations and maintenance of the system.

This title directs the Secretary of Interior to convey certain facilities of the Minidoka Project, Idaho, to the Burley Irrigation District, including water rights. Water rights include the rights set forth in contracts between the United States and the District or in

the Decree of June 20, 1913, of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of *Twin Falls Canal Company v. Charles N. Foster, et al.*, and commonly referred to as the "Foster Decree".

It is recognized that the water rights are obtained from the State of Idaho as required by the Reclamation Act of 1902. Consequently, the water rights described in the bill together with title to the distribution system shall be transferred. An agreement on water rights must be reached involving the two districts and the Secretary prior to transfer. In negotiating the terms of the agreement, the parties should include language addressing the issue of any future costs associated with any future legal actions related to the transfer of the water rights.

#### *Title III—Carlsbad Irrigation Project, New Mexico*

The Carlsbad Project is a paid-out, single purpose irrigation project delivering stored water to approximately 25,000 acres of farm land in southeastern New Mexico. With the District's repayment obligation completed, this title allows the Secretary of Interior to transfer the acquired lands and the drainage and distribution system from Reclamation to the District.

Mineral leases for the acquired lands in the project were issued under the Mineral Leasing Act for Acquired Lands, and until the project indebtedness was repaid in 1991, were credited toward indebtedness on the project. These receipts continue to be paid into the Reclamation Fund and exist as credits to the Carlsbad Project. The legislation stipulates that amounts in the Reclamation Fund on the date of enactment of H.R. 4389, which exist as construction credits to the Carlsbad Project under the terms of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), shall be deposited into the general fund of the Treasury and credited to deficit reduction or retirement of the federal debt.

After the conveyance of the facilities and lands, the Carlsbad Irrigation District will take over the financing for the portion of operations, maintenance, and replacement at Sumner Dam that, prior to conveyance, was the responsibility of the Bureau of Reclamation. In assuming these responsibilities the District shall be entitled to any receipts from all mineral and grazing leases, licenses, and permits existing on the Project lands after conveyance. Receipts from mineral and grazing leases, licenses and permits on Project lands to be conveyed, that are received by the United States after the date of enactment of H.R. 4389 and before the date of conveyance shall be deposited into the general fund of the Treasury of the United States and credited to deficit reduction or retirement of the federal debt. However, up to \$200,000 of the receipts received between the date of enactment and the date of conveyance shall be used to offset the cost of implementing this title.

#### *Title IV—Palmetto Bend Project, Texas*

The Palmetto Bend Project is located on the Gulf Coast in Texas about midway between Houston and Corpus Christi. The Project encompasses approximately 17,000 acres. The largest component of the project is Lake Texana, which covers about 10,000 acres. The land, including the minerals, was purchased and this project was

completed in 1980 by the Bureau of Reclamation under a repayment contract with the Lavaca-Navidad River Authority (LNRA) and Texas Water Development Board. The LNRA is a governmental entity created by the Texas legislature. While LNRA is solely responsible for operating and maintaining the Palmetto Bend Project, the Texas Water Development Board, an agency of the State of Texas, is a co-sponsor of this Project. The Project was turned over to the LNRA to operate and maintain in 1985.

This title authorizes prepayment of the net present worth of the remaining repayment obligation, and directs the Secretary of the Interior to transfer title to Palmetto Bend Project, Texas, to the "State of Texas/Lavaca-Navidad River Authority" as defined.

The operating entity's official management plan includes more fish, wildlife and recreation benefits than now provided under Bureau of Reclamation control, such as a planned water fowl sanctuary and much expanded recreation. This management plan cannot be changed without public hearings and concurrence of the State regulatory agency, the Texas Natural Resource Conservation Commission. During negotiations with the Bureau of Reclamation a question was raised about future private shoreline development. No such development is contemplated at this time in the management plan.

The Committee has opted to defer to the State regarding water rights; it is not the intent of Congress to interfere with rights and responsibilities of the State.

*Title V—Wellton-Mohawk Division, Gila Project, Arizona*

The Gila Project began in 1936, and the first water was made available for irrigation from the Gila Gravity Main Canal on November 4, 1943. Construction of the Wellton-Mohawk Division features was started in August 1949. On May 1, 1952, water from the Colorado River was turned onto the Wellton-Mohawk fields for the first time. The Wellton-Mohawk Irrigation and Drainage District operates the irrigation facilities in the Wellton-Mohawk Division.

This title directs the Secretary of Interior to convey certain facilities of the Gila Project, Arizona, to the Wellton-Mohawk Irrigation and Drainage District within three years after enactment pursuant to a Memorandum of Agreement between the Bureau and the District that was signed on July 10, 1998. It also authorizes the Secretary to sell adjacent withdrawn lands and related lands to the District based on a fair market valuation. No change in project operation is contemplated by the transfer and the District will continue to limit irrigated acreage to 62,875 as provided in Public Law 93-320. The transfer would include all facilities and works for which full repayment has been made. On November 7, 1991, the Bureau certified that full repayment had been made for all water delivery and drainage works.

*Title VI—Canadian River Project, Texas*

The Texas Legislature created the Canadian River Municipal Water Authority and authorized it to contract with the federal government under the federal reclamation laws. The Canadian River Project was authorized by the Congress in 1950, subject to Congressional approval of the interstate compact between the States of

New Mexico, Texas and Oklahoma. Congress consented to the interstate compact in 1952. Construction of the Canadian River Project began in 1962 with Sanford Dam, which created Lake Meredith. Water deliveries were initiated in 1968 and the operation and maintenance responsibilities were transferred to the Authority. The project works provide for storage and delivery of water supplies to supplement the municipal and industrial needs of 11 cities in the High Plains area of Texas.

Almost since the initiation of project deliveries in 1968, the quality of the water has declined due to increased salinity, caused by salt water aquifer in New Mexico that seeps into the Canadian River. Transfer of the facilities will facilitate coordinated management with the Canadian River Conjunctive Use Groundwater Project. That project is designed to supplement the present reservoir water supply with better quality groundwater. The proposed groundwater project will not require federal funding. It would be interconnected with the existing Canadian River Project facilities where the groundwater would be mixed with Project water and distributed through existing project facilities.

This title authorizes prepayment of the outstanding debt of the Canadian River Municipal Water Authority, and directs the Secretary of Interior to convey the Canadian River Project pipeline and related facilities to the Authority upon payment. The Authority agrees to pay approximately \$34.8 million within 9 months of enactment.

*Title VII—Clear Creek Distribution System, California*

The facilities to be transferred under this title are located in the Central Valley Project's Clear Creek South Unit which was authorized by the Act of August 12, 1955.

This title authorizes the Secretary of Interior to convey title for the Clear Creek Distribution System to the Clear Creek Community Services District. This legislation is complementary to an existing agreement between the District and Reclamation which represents a cooperative effort to identify transfer conditions which are satisfactory to both parties. The agreement stipulates the irrigation conveyance system, surface drainage, related lands, a control tank and various other equipment and properties will be transferred. The payments received to date through the existing repayment contract constitute the full payment for transfer of the Project, while responsibilities for all duties and costs associated with the operation, replacement, maintenance, enhancement, and betterment of the distribution system shall be assumed by the District.

*Title VIII—Pine River Project, Colorado*

The Pine River Project was originally authorized in 1937. The only Project feature is the Vallecito Dam and Reservoir with a capacity of 129,700 acre feet. The Project is paid out and the water rights are held by the District rather than the federal government under Reclamation law. The project is authorized for irrigation and also provides flood control, recreation, and fish and wildlife benefits. Nothing in this title shall relieve the Federal Energy Regulatory Commission (FERC) license holder at the dam from continu-

ing to make payments to FERC under the Federal Power Act for the term of the existing license.

At one time in the negotiations concerning the transfer, consideration was given to converting a portion of the District's irrigation water supply to municipal and industrial purposes. This led to suggestions that the District pay an additional fee for potential lost revenue that would have accrued to the federal government if the government retained ownership. The Committee determined that such costs were speculative and the District would not be responsible for such costs. The District has indicated in writing that it would not pursue such conversion in any case because alternate supplies have been identified.

This title directs the Secretary of Interior to convey an undivided 5/6 interest in the Pine River Project, held by the Bureau of Reclamation, to the Pine River Irrigation District. The remaining 1/6 continues to be held by the Bureau of Indian Affairs in trust for the Southern Ute Indian Tribe until the Tribe requests transfer.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact H.R. 4389.

#### COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 4389. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

#### COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 4389 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Congressional Budget Office (CBO) estimates that enactment of this bill would reduce federal discretionary spending by approximately \$1 million. In addition, CBO estimates that enacting H.R. 4389 would decrease direct spending by approximately \$69 million over the 1999–2003 time period, but that near-term savings would be offset from a loss of receipts from repayment contracts, water sales and leases over the next 40 years.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 4389.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 4389 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 5, 1998.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed revised cost estimate for H.R. 4389, a bill to provide for the conveyance of various reclamation project facilities to local water authorities, and for other purposes. This revised estimate supersedes the estimate that CBO provided on September 15, 1998, and clarifies the long term budgetary impacts of enacting the bill. The estimated budgetary impact of H.R. 4389 over the 1999–2008 period is unchanged.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Gary Brown (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

*H.R. 4389—A bill to provide for the conveyance of various reclamation project facilities to local water authorities, and for other purposes*

Summary: H.R. 4389 would direct the Secretary of the Interior, acting through the U.S. Bureau of Reclamation, to convey facilities at the following reclamation projects to local water authorities: Central Valley Project, California (Sly Park Unit and the Clear Creek Distribution System); Minidoka Project, Idaho; Carlsbad Irrigation Project, New Mexico; Palmetto Bend Project, Texas; Gila Project, Arizona; Canadian River Project, Texas; and the Pine River Project, Colorado. The following conditions would apply:

The secretary would be directed to complete each conveyance, including environmental review, within 180 days of enactment if project operations are not expected to change following the conveyance and within two years if they are;

The federal government and the locality would split the cost of each conveyance if it occurs by the appropriate deadline, and the federal government would bear the full cost if it does not;

The local authority would operate and maintain each facility after conveyance; and

Except for the Sly Park Unit and the Clear Creek Distribution system, local entities would pay the present value of their remaining repayment obligations with the bureau.

CBO estimates that implementing H.R. 4389 would reduce federal discretionary spending over the 1999–2003 period by about \$1 million, assuming net appropriations consistent with the bill. Enacting the bill would affect direct spending; therefore, pay-as-you-go procedures would apply. CBO estimates that enacting H.R. 4389 would yield a net decrease in direct spending of \$69 million over the 1999–2003 period, but that near-term cash savings would be approximately offset on a present-value basis by the loss of receipts from repayment contracts, water sales, and leases. The near-term savings primarily would reflect estimated prepayments of about \$91 million over fiscal years 1999 and 2000. Forgone repayment receipts would average about \$5 million a year over the 37-year period from 1999 through 2035.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Local governments might incur some costs as a result of the bill's enactment, but these costs would be voluntary.

**Estimated cost to the Federal Government:** The estimated budgetary impact of H.R. 4389 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal years, in millions of dollars—					
	1998	1999	2000	2001	2002	2003
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
Spending Under Current Law:						
Estimated Authorization Level <sup>a</sup> .....	(b)	2	1	(b)	(b)	(b)
Estimated Outlays .....	(b)	1	1	1	(b)	(b)
Proposed Changes:						
Estimated Authorization Level .....	0	(b)	–1	(–b)	(–b)	(–b)
Estimated Outlays .....	0	(b)	(b)	–1	(–b)	(–b)
Spending Under H.R. 4389:						
Estimated Authorization Level <sup>a</sup> .....	(b)	2	0	0	0	0
Estimated Outlays .....	(b)	2	1	0	0	0
<b>CHANGES IN DIRECT SPENDING</b>						
Estimated Budget Authority .....	0	–37	–53	7	7	7
Estimated Outlays .....	0	–37	–53	7	7	7

<sup>a</sup> In 1998, less than \$500,000 was appropriated for operating and maintaining the projects that would be conveyed. Continuation of these expenses, including anticipated studies and replacement of project works in 1999 and 2000, is authorized under current law. Enacting H.R. 4389 would eliminate the need for such appropriations after 1999.

<sup>b</sup> Less than \$500,000.

**Basis of estimate:** For the purpose of this estimate, CBO assumes that H.R. 4389 will be enacted near the beginning of fiscal year 1999 and that the estimated amounts necessary to implement the bill will be appropriated in that year. In those years that CBO estimates a reduction in the need for federal obligations, CBO assumes that appropriations will be reduced accordingly. Outlays are estimated based on historical rates of spending for the authorized activities.

#### *Spending subject to appropriation*

CBO estimates that implementing H.R. 4389 would yield a net decrease of about \$1 million in spending subject to appropriation over the 1999–2003 period. CBO estimates that completing the con-

veyances specified in the bill would require new spending subject to appropriation of about \$3 million over the 1999–2000 period. These amounts would be used for preparing transfer documents, conducting environmental reviews, and operating and maintaining the facilities before they are transferred. CBO anticipates that most of the facilities would be transferred in fiscal year 1999, that the remaining units would be transferred by the end of fiscal year 2000, and that the bureau would pay most of the costs of conveying these facilities. The new spending of about \$3 million would be offset, however, by savings of a similar amount over the 1999–2000 period because the conveyances would eliminate the need for most of the currently authorized funding for these projects. CBO estimates that, under current law, the bureau will need about \$2 million in 1999, \$1 million in 2000, and less than \$500,000 each year thereafter for studies, operations, maintenance, and replacement of these facilities.

*Direct spending*

*Prepayments.* H.R. 4389 would direct local authorities to pay the present value of their outstanding obligations to the United States for the facilities that are to be conveyed. CBO anticipates that, if the bill is enacted, prepayments would be made for eligible facilities at the Central Valley (Sly Park Unit), Palmetto Bend, and Canadian River Projects. CBO estimates that prepayments would total \$37 million in 1999 and \$54 million in 2000. Those receipts would be offset by the loss of currently scheduled annual repayments over the 37-year period of 1999 through 2035. We estimate that forgone payments would total less than \$500,000 in 1999, \$3 million in 2000, \$7 million annually over the 2001–2022 period, and \$4 million annually over the 2023–2035 period. (Roughly \$100,000 that is due over the 2000–2004 period from the Clear Creek Community Services District for the Clear Creek Distribution System of the Central Valley Project would be forgiven rather than prepaid.) There are no amounts due for the other facilities that would be transferred under the bill.

H.R. 4389 would transfer title to the Sly Park Unit to the El Dorado Irrigation District without extinguishing or authorizing the prepayment of all of the district's outstanding obligations to the United States for this set of facilities. Transferring title would limit the United States' recourse in the case that the district defaults on its outstanding debt. Based on information provided by the bureau, CBO estimates that approximately \$16 million in debt would remain outstanding upon title transfer. These outstanding obligations are associated with the project's distribution system. All amounts are scheduled to be repaid, mostly without interest, by 2019. Because we cannot predict the likelihood of default or the outcome of actions to seek recourse, CBO cannot estimate the likelihood, timing, or amount of any potential loss that could result from enacting this provision.

*Asset Sales.* H.R. 4389 would require the Wellton-Mohawk Irrigation and Drainage District to pay the federal government fair market value for certain lands at the Gila Project before the secretary may convey them to the district. Based on information provided by the bureau, CBO estimates that the district would pay a minimum



of about \$2 million for the specified lands and that the payment would be made in fiscal year 2000. Under the Balanced Budget Act of 1997, proceeds from nonroutine asset sales (sales that are not authorized under current law) may be counted for pay-as-you-go purposes only if the sale would entail no financial cost to the government. Based on information provided by the bureau, CBO estimates that the sale proceeds would exceed any net revenues currently projected to accrue from these lands; therefore, selling these assets would result in a net savings for pay-as-you-go purposes.

*Other Offsetting Receipts.* Enacting the bill would result in a loss of receipts from mineral and grazing leases at the Carlsbad Irrigation Project. Amounts collected in 1999 could be used to pay the cost of transferring the project to the Carlsbad Irrigation District. Beginning in 2000, all such collections would go to the district. Under current law, these amounts are deposited in the Treasury. CBO estimates that losses would total about \$200,000 a year.

CBO estimates that enacting H.R. 4389 also could result in a loss of water-use charges totaling less than \$50,000 annually, beginning in 2005, at the Pine River Project. Based on information provided by the bureau, CBO anticipates that, beginning in 2005, the Pine River Irrigation District may start redirecting water from irrigation to municipal and industrial uses. Under current law, the district would pay a charge for this action. This charge would not apply if the project is transferred to the district under the terms of the bill.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. Enacting the bill would not affect governmental receipts. For the purpose of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal years, in millions of dollars—										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays ....	0	-37	-53	7	7	7	7	7	7	7	7
Changes in receipts ...	Not applicable										

Estimated impact on State, local, and tribal governments: H.R. 4389 contains no intergovernmental mandates as defined in UMRA. All the conveyances authorized by this bill would be voluntary on the part of the affected local water authorities, and any costs incurred by these authorities as a result of the conveyances would be accepted by them on that basis.

The bill would require local authorities to pay half the cost of the conveyances if the bureau is able to complete the process within certain deadlines. CBO estimates, however, that most of the conveyances would not be completed within the deadlines, leaving the federal government to pay most of these costs. The Pine River Irrigation District, however, would be required to prepare and submit a plan for management of the Vallecito Dam and Reservoir before

that project could be conveyed. In addition, some of the local authorities would be required to pay the present value of their outstanding obligations to the United States before the facilities could be conveyed, and one would be required to pay fair market value for certain project lands designated for transfer. CBO estimates that these payments would total about \$93 million. Finally, local authorities would assume responsibility for operating and maintaining the facilities once they are conveyed.

At least two local authorities would receive monetary benefits from enactment of this bill. The Carlsbad Irrigation District would begin to receive all revenues from grazing permits and oil and gas leases on transferred lands, which CBO estimates would total about \$200,000 per year. The Pine River Irrigation District would be able to avoid paying certain water use charges, which CBO estimates would total less than \$50,000, beginning in 2005.

Estimated impact on the private sector: The bill would impose no new private-sector mandates as defined in UMRA.

Previous CBO estimates: CBO provided an estimate for this bill on September 15, 1998. CBO's estimate of the budgetary impact of enacting H.R. 4389 over the 1999–2008 period is unchanged. This revised estimate clarifies that whether conveying the Pine River Project would result in a loss of offsetting receipts beginning in 2005 is uncertain and that the potential loss would be less than \$50,000 annually. The original estimate stated that conveying the project would result in a loss of receipts and indicated only that the annual loss would be less than \$500,000 per year. This revised estimate also clarifies that H.R. 4389 would not result in a loss of regularly scheduled repayments over the 2036–2038 period.

On August 13, 1998, CBO provided an estimate for S. 2087, the Wellton-Mohawk Title Transfer Act of 1998, as ordered reported by the Senate Committee on Energy and Natural Resources on July 29, 1998. CBO estimated that enacting this bill would result in additional spending of about \$1 million over the next two years, assuming appropriation of the necessary amounts. CBO's estimate of the level of appropriations required for transferring the Gila Project under H.R. 4389 is the same. In contrast to S. 2087, however, H.R. 4389 also would require the district to pay fair market value for certain lands prior to conveyance. CBO estimates that the district will pay a minimum of about \$2 million for these lands.

On October 31, 1997, CBO provided an estimate for S. 538, a bill to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes, as ordered reported by the Senate Committee on Energy and Natural Resources on October 22, 1997. CBO estimated that implementing the bill would require new spending subject to appropriation of less than \$100,000 over two years. The provisions of H.R. 4389 are similar and so are the estimates.

Estimate prepared by: Federal Costs: Gary Brown. Impact on State, Local, and Tribal Governments: Marjorie Miller.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104–4

H.R. 4389 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 4389 would make no changes in existing law.

## DISSENTING VIEWS

While the Committee has come a long way toward eliminating the most egregious provisions of the Subcommittee's mark-up on Bureau of Reclamation project transfers, there are several remaining issues that lead me to dissent from reporting this legislation.

First, by insisting that the project transfer bills be grouped into a single bill and burdened with boilerplate language for each transfer, the Committee has created new issues where none existed before, and held some relatively non-controversial transactions hostage to the more dubious proposals. The elimination of National Environmental Policy Act and Endangered Species Act "sufficiency" language has made this boilerplate text more palatable, but the transfer deadlines set in the bill still force widely varying transactions that raise widely varying public issues into a single narrow process.

In addition, there are significant substantive issues remaining in several of the transfers. For the Pacific Northwest, the transfer of water rights to the Burley Irrigation District in Title II raises questions regarding the Minidoka Project's future contribution to regional salmon recovery efforts. While every interested party in the region is being asked to make some sacrifice to redress past damage to salmon stocks, the Burley Irrigation District will apparently be reducing its obligation by eliminating the federal interest in its water rights.

Furthermore, an outstanding issue that has not been resolved despite repeated attempts at negotiation is whether the Palmetto Bend Project might be used after transfer to wheel water out of the Colorado River of Texas. The Subcommittee added language to Title IV intended to deter such use of the project, but that language would still allow the new project owners to use the project to divert water from the Colorado, with project water then substituted for the Colorado River water in order to move the water further away from the river basin. Such use of the project would not currently be allowable without an amendment to the Warren Act, and Colorado River basin interests have raised serious questions regarding whether transferring title to the project will simply be used as a mechanism to skirt the Warren Act restrictions.

Apart from these issues of project management, I still have significant fiscal concerns regarding the approach to project transfers taken in H.R. 4389. Two of the project transfers contained in this bill raise specific financial questions:

(1) In Title III, the Carlsbad Irrigation District will be receiving the right to future income from project lands, including oil and gas royalties with a present value of nearly \$2 million. In exchange for this income, the Carlsbad District will take on operation and maintenance obligations at Sumner Dam—an obligation that currently costs about \$28,000 per year. This is not a good deal for the tax-

payers. If the Carlsbad District wishes to take over portions of the project, then portions of the O&M obligation should go with that. The windfall oil and gas royalties are simply a direct giveaway of income owed to the Treasury.

(2) In Title VIII, the Pine River Irrigation District is being given  $\frac{5}{6}$  of the Vallecito Dam and Reservoir at no cost, despite the Pine River District's agreement with the Bureau of Reclamation to pay \$193,000 toward the value of converting project water to municipal supply. The Pine River District reiterated that commitment in recent letters to the Congress, yet the Committee has decided to eliminate the payment from the bill.

In addition to these specific financial concerns, I am troubled that the transfer proposals here do not provide any further payment to the taxpayers based on their substantial past investment in the projects. As with all Reclamation projects, the project beneficiaries are making payments on these projects at a highly subsidized rate. Even after the "repayment period" has ended, a substantial portion of the project costs generally remain unpaid, and title to the projects remains with the federal government. The approach taken by the bill would simply give away the title to the projects for free once that limited repayment is completed. As stewards of the Federal Treasury, I question whether we should be giving away these valuable assets for nothing. The Committee has not adequately explored this issue of the proper value to place on Federal property, and the bill should not be passed without further examination of the question.

PETER DEFazio.

